

Title 16: COURT PROCEDURE -- EVIDENCE
Chapter 3: RECORDS AND OTHER DOCUMENTS

Table of Contents

Subchapter 1. GENERAL PROVISIONS.....	5
Section 351. TESTIMONY OF DECEASED SUBSCRIBING WITNESS OR MAGISTRATE.....	5
Section 352. WRITINGS DATED SUNDAY (REPEALED).....	5
Section 353. AVOIDANCE OF LORD'S DAY CONTRACTS; RESTORATION OF CONSIDERATION; TORTS ON LORD'S DAY (REPEALED).....	5
Section 353-A. CONTRACTS AND TORTS ON LORD'S DAY.....	5
Section 354. PROOF OF SIGNATURE (REPEALED).....	5
Section 355. AFFIDAVIT OF PLAINTIFF AS PRIMA FACIE EVIDENCE.....	5
Section 356. ACCOUNTS ADMISSIBLE THOUGH HEARSAY OR SELF-SERVING.....	6
Section 357. HOSPITAL RECORDS AND COPIES OF RECORDS.....	6
Subchapter 2. JUDICIAL NOTICE.....	6
Section 401. CONSTRUCTION TO EFFECTUATE PURPOSE.....	7
Section 402. COMMON LAW AND STATUTES.....	7
Section 403. INFORMATION FOR COURT.....	7
Section 404. DETERMINATION OF LAWS BY COURT IS REVIEWABLE.....	7
Section 405. ADMISSIBILITY OF LAWS OF OTHER JURISDICTIONS.....	7
Section 406. LAWS OF FOREIGN COUNTRIES.....	7
Subchapter 3. PUBLIC RECORDS.....	7
Section 451. COURT RECORDS AS EVIDENCE.....	7
Section 452. ADMISSIBILITY; ATTESTED COPIES OF DEEDS (REPEALED).....	7
Section 453. -- COPIED RECORDS OF DEEDS.....	7
Section 454. -- PHOTOSTATS OF PUBLIC RECORDS.....	7
Section 455. AUTHORIZATION OF PHOTOSTATS.....	8
Section 456. PHOTOSTATIC AND MICROFILM REPRODUCTIONS ADMISSIBLE.....	8
Section 456-A. ADMISSIBILITY OF ELECTRONIC RECORDS.....	8
Section 457. COPIES OF CONSULAR AND CUSTOMHOUSE RECORDS AND DOCUMENTS.....	9
Section 458. COPIES OF DEEDS OF DIRECTOR OF THE BUREAU OF PARKS AND LANDS.....	9
Section 459. ADJUTANT GENERAL'S CERTIFICATE AS EVIDENCE.....	10
Section 460. PROOF OF OFFICIAL RECORD (REPEALED).....	10
Section 461. PROOF OF LACK OF RECORD (REPEALED).....	10
Section 462. SCOPE OF PROOF (REPEALED).....	10
Subchapter 4. STATUTES AND LAW.....	10
Section 501. PROOF OF FOREIGN LAWS AND UNWRITTEN STATE LAW.....	10

Subchapter 5. DEPOSITIONS.....	10
Section 551. USE OF DEPOSITIONS.....	11
Section 552. RECORDING OF DEPOSITION AND OTHER PAPERS.....	11
Section 553. DEPOSITION BY COMPULSION.....	11
Section 554. STENOGRAPHERS WITH POWER TO TAKE DEPOSITIONS (REPEALED).....	11
Section 555. MANNER OF TAKING DEPOSITIONS AND DISCLOSURES (REPEALED).....	11
Section 556. FEES OF COMMISSIONERS (REPEALED).....	11
Section 557. TESTIMONY OF PARTY OUT OF STATE.....	11
Subchapter 6. RECORDS OF ARRESTS.....	12
Section 600. EXPUNGEMENT OF RECORDS OF ARREST (REPEALED).....	12
Subchapter 7. CRIMINAL HISTORY RECORD INFORMATION.....	12
Section 601. DEFINITIONS (REPEALED).....	12
Section 602. APPLICABILITY (REPEALED).....	12
Section 603. NONDISCLOSURE OF CERTAIN RECORDS (REPEALED).....	12
Section 604. LIMITATIONS ON DISSEMINATION (REPEALED).....	12
Section 605. UNLAWFUL DISSEMINATION (REPEALED).....	12
Section 606. RIGHT TO ACCESS AND REVIEW (REPEALED).....	12
Section 607. APPLICATION (REPEALED).....	13
Subchapter 8. CRIMINAL HISTORY RECORD INFORMATION ACT.....	13
Section 611. DEFINITIONS (REPEALED).....	13
Section 612. APPLICATION (REPEALED).....	13
Section 612-A. RECORD OF PERSONS DETAINED (REPEALED).....	13
Section 613. LIMITATIONS ON DISSEMINATION OF NONCONVICTION DATA (REPEALED).....	13
Section 614. LIMITATION ON DISSEMINATION OF INTELLIGENCE AND INVESTIGATIVE INFORMATION (REPEALED).....	13
Section 615. DISSEMINATION OF CONVICTION DATA (REPEALED).....	14
Section 616. INQUIRIES REQUIRED (REPEALED).....	14
Section 617. DISSEMINATION TO NONCRIMINAL JUSTICE AGENCIES (REPEALED).....	14
Section 618. CONFIRMING EXISTENCE OR NONEXISTENCE OF CRIMINAL HISTORY RECORD INFORMATION (REPEALED).....	14
Section 619. UNLAWFUL DISSEMINATION (REPEALED).....	14
Section 620. RIGHT TO ACCESS AND REVIEW (REPEALED).....	14
Section 622. APPLICATION (REPEALED).....	14
Section 623. ATTORNEY GENERAL FEES (REPEALED).....	14
Subchapter 9. MAINE CRIMINAL JUSTICE INFORMATION SYSTEM	15
Section 631. MAINE CRIMINAL JUSTICE INFORMATION SYSTEM.....	15
Section 632. DEFINITIONS.....	16
Section 633. POLICY BOARD ESTABLISHED; MEMBERSHIP.....	17

Section 634. TERM OF MEMBERSHIP.....	17
Section 635. DUTIES.....	18
Section 636. ADMINISTRATION.....	19
Section 637. MEETINGS.....	19
Subchapter 10. PORTABLE ELECTRONIC DEVICE CONTENT INFORMATION.....	19
Section 641. DEFINITIONS.....	19
Section 642. AUTHORITY TO OBTAIN AND DISCLOSE CONTENT INFORMATION HELD BY A PROVIDER OF ELECTRONIC COMMUNICATION SERVICE.....	20
Section 643. NOTICE.....	21
Section 644. EXCEPTIONS.....	21
Section 645. USE OF CONTENT INFORMATION OBTAINED IN VIOLATION OF THIS SUBCHAPTER NOT ADMISSIBLE.....	22
Section 646. VIOLATIONS; INJUNCTIVE RELIEF.....	22
Subchapter 11. ELECTRONIC DEVICE LOCATION INFORMATION.....	22
Section 647. DEFINITIONS (REALLOCATED FROM TITLE 16, SECTION 641).....	22
Section 648. WARRANT NEEDED FOR ACQUISITION OF LOCATION INFORMATION (REALLOCATED FROM TITLE 16, SECTION 642).....	24
Section 649. NOTICE (REALLOCATED FROM TITLE 16, SECTION 643).....	24
Section 650. EXCEPTIONS TO WARRANT REQUIREMENT (REALLOCATED FROM TITLE 16, SECTION 644).....	25
Section 650-A. CONDITIONS OF USE OF LOCATION INFORMATION (REALLOCATED FROM TITLE 16, SECTION 645).....	25
Section 650-B. ACTION AGAINST A CORPORATION (REALLOCATED FROM TITLE 16, SECTION 646).....	26

Maine Revised Statutes
Title 16: COURT PROCEDURE -- EVIDENCE
Chapter 3: RECORDS AND OTHER DOCUMENTS

Subchapter 1: GENERAL PROVISIONS

**§351. TESTIMONY OF DECEASED SUBSCRIBING WITNESS OR
MAGISTRATE**

When the testimony of a subscribing witness to a deed or of the magistrate who took the acknowledgment thereof has been taken in the trial of any civil action in relation to the execution, delivery or registry of such deed, and such witness has since died, proof of such former testimony is admissible in the trial of any other civil action involving the same question if the parties are the same or if one of the parties is the same and the adverse party acted as agent or attorney for the adverse party in the former action, but such testimony may be impeached like the testimony of a living witness.

§352. WRITINGS DATED SUNDAY
(REPEALED)

SECTION HISTORY
1979, c. 11, §1 (RP).

**§353. AVOIDANCE OF LORD'S DAY CONTRACTS; RESTORATION OF
CONSIDERATION; TORTS ON LORD'S DAY**
(REPEALED)

SECTION HISTORY
1979, c. 11, §1 (RP).

§353-A. CONTRACTS AND TORTS ON LORD'S DAY

No deed, contract, receipt or other instrument in writing shall be voidable only because it was made, executed, dated or delivered on the Lord's Day. [1979, c. 11, §2 (NEW).]

Title 17, chapter 105, relating to the observance of the Lord's Day shall not affect the rights or remedy of either party in any action for a tort or injury suffered on that day. [1979, c. 11, §2 (NEW).]

SECTION HISTORY
1979, c. 11, §2 (NEW).

§354. PROOF OF SIGNATURE
(REPEALED)

SECTION HISTORY
1977, c. 564, §80 (RP).

§355. AFFIDAVIT OF PLAINTIFF AS PRIMA FACIE EVIDENCE

In all actions brought on an itemized account annexed to the complaint, the affidavit of the plaintiff, made before a notary public using a seal, that the account on which the action is brought is a true statement of the indebtedness existing between the parties to the action with all proper credits given and that the prices or

items charged therein are just and reasonable shall be prima facie evidence of the truth of the statement made in such affidavit and shall entitle the plaintiff to the judgment unless rebutted by competent and sufficient evidence. When the plaintiff is a corporation, the affidavit may be made by its president, vice-president, secretary, treasurer or other person authorized by the corporation. [1981, c. 470, Pt. A, §34 (AMD).]

SECTION HISTORY

1977, c. 564, §81 (AMD). 1977, c. 696, §364 (AMD). 1981, c. 470, §A34 (AMD).

§356. ACCOUNTS ADMISSIBLE THOUGH HEARSAY OR SELF-SERVING

An entry in an account kept in a book or by a card system or by any other system of keeping accounts shall not be inadmissible in any civil proceeding as evidence of the facts therein stated because it is transcribed or because it is hearsay or self-serving, if the court finds that the entry was made in good faith in the regular course of business and before the beginning of the civil proceeding. The court in its discretion, before admitting such entry in evidence, may, to such extent as it deems practicable or desirable but to no greater extent than the law required before June 30, 1933, require the party offering the same to produce and offer in evidence the original entry, writing, document or account from which the entry offered or the facts therein stated were transcribed or taken, and to call as his witness any person who made the entry offered or the original or any other entry, writing, document or account from which the entry offered or the facts therein stated were transcribed or taken or who has personal knowledge of the facts stated in the entry offered.

§357. HOSPITAL RECORDS AND COPIES OF RECORDS

Records kept by hospitals and other medical facilities licensed under the laws of this State and records which the court finds are required to be kept by the laws of any other state or territory, or the District of Columbia, or by the laws and regulations of the United States of America pertaining to the Department of National Defense and the Veterans Administration, by hospitals and other medical facilities similarly conducted or operated or which, being incorporate, offer treatment free of charge, shall be admissible, as evidence in the courts of this State so far as such records relate to the treatment and medical history of such cases and the court shall admit copies of such records, if certified by the persons in custody thereof to be true and complete, but nothing therein contained shall be admissible as evidence which has reference to the question of liability. Copies of photographic or microphotographic records so kept by hospitals and medical facilities, when duly certified by the person in charge of the hospital and other medical facility, shall be admitted in evidence equally with the original photographs or microphotographs. [1973, c. 788, §66 (AMD).]

Notwithstanding this section, the result of a laboratory or any other test kept by a hospital or other medical facility that reflects an alcohol level, a detectable urine-drug level, a detectable blood-drug level or a drug concentration of either blood or urine may not be excluded as evidence in a criminal or civil proceeding by reason of any claim of confidentiality or privilege and may be admitted as long as the result is relevant and reliable evidence if the proceeding is one in which the operator of a motor vehicle, snowmobile, all-terrain vehicle or watercraft is alleged to have operated under the influence of intoxicating liquor or drugs and the court is satisfied that probable cause exists to believe that the operator committed the offense charged. [2011, c. 335, §1 (AMD).]

SECTION HISTORY

1969, c. 384, (NEW). 1973, c. 788, §66 (AMD). 1987, c. 791, §3 (AMD). 2005, c. 477, §26 (AMD). 2007, c. 63, §1 (AMD). 2009, c. 447, §17 (AMD). 2011, c. 335, §1 (AMD).

Subchapter 2: JUDICIAL NOTICE

§401. CONSTRUCTION TO EFFECTUATE PURPOSE

This subchapter shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact them and may be cited as the "Uniform Judicial Notice of Foreign Law Act."

§402. COMMON LAW AND STATUTES

Every court of this State shall take judicial notice of the common law and statutes of every state, territory and other jurisdiction of the United States.

§403. INFORMATION FOR COURT

The court may inform itself of such laws in such manner as it may deem proper and the court may call upon counsel to aid it in obtaining such information.

§404. DETERMINATION OF LAWS BY COURT IS REVIEWABLE

The determination of such laws shall be made by the court and not by the jury and shall be reviewable.

§405. ADMISSIBILITY OF LAWS OF OTHER JURISDICTIONS

Any party may present to the trial court any admissible evidence of such laws, but to enable a party to offer evidence of the law in another jurisdiction or to ask that judicial notice be taken thereof, reasonable notice shall be given to the adverse parties, if any, either in the pleadings or otherwise.

§406. LAWS OF FOREIGN COUNTRIES

The law of a jurisdiction other than those referred to in section 402 shall be an issue for the court but shall not be subject to sections 402 to 405, concerning judicial notice.

Subchapter 3: PUBLIC RECORDS**§451. COURT RECORDS AS EVIDENCE**

The records and proceedings of any court of the United States or of any state, authenticated by the attestation of the clerk or officer having charge thereof and by the seal of such court, are evidence.

§452. ADMISSIBILITY; ATTESTED COPIES OF DEEDS

(REPEALED)

SECTION HISTORY

1977, c. 564, §82 (RP).

§453. -- COPIED RECORDS OF DEEDS

Copies made from any portion of either of the volumes of the early records in the York County registry of deeds published by the authority of the Legislature and placed in each registry, when attested by any register of deeds having lawful custody of such printed volume, and records duplicated from originals or from copies of originals in any registry of deeds and filed in such registry of deeds or in any other registry of deeds by authority of law and copies made from such records when attested by the register of deeds of the county or district where such records are filed, may be used in evidence like attested copies of the original records.

§454. -- PHOTOSTATS OF PUBLIC RECORDS

Copies made by photographic process from public records shall be received as evidence in the courts of this State under existing laws if duly attested by the officials required by law to keep said records.

§455. AUTHORIZATION OF PHOTOSTATS

Whenever any officer or employee of the State or of any county, city or town is required or authorized by law, or otherwise, to record or copy any document, plat, paper or instrument in writing, he may do such recording or copying by any photostatic, photographic or other mechanical process which produces a clear, accurate and permanent copy or reproduction of the original document, plat, paper or instrument in writing.

§456. PHOTOSTATIC AND MICROFILM REPRODUCTIONS ADMISSIBLE

If, in the regular course of any business or governmental activity, there is kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence or event, and in the regular course of any business or governmental activity, causes any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic, optical disk that is not erasable or other process that accurately reproduces or forms a durable medium for reproducing the original, the reproduction or copy, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of the reproduction or copy is likewise admissible in evidence if the original reproduction or copy is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile does not preclude admission of the original. This section may not be construed to exclude from evidence any document or copy thereof which is otherwise admissible under the rules of evidence. [1991, c. 172, §2 (AMD).]

SECTION HISTORY

1991, c. 172, §2 (AMD).

§456-A. ADMISSIBILITY OF ELECTRONIC RECORDS

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Electronic record" means a record whose content is not readable unless retrieved by means of an electronic device such as a computer or an audio or video player. [1997, c. 636, §9 (NEW).]

B. "Record" means all documentary material, regardless of media or characteristics, made or received and maintained by an agency in accordance with law or rule or in the transaction of its official business. "Record" does not include extra copies of printed or processed material of which official or record copies have been retained, stocks of publications and processed documents intended for distribution or use or records relating to personal matters that may have been kept in an office for convenience. [1997, c. 636, §9 (NEW).]

[1997, c. 636, §9 (NEW) .]

2. Effect. A record may not be denied legal effect, validity or enforceability solely because it is in the form of an electronic record.

[1997, c. 636, §9 (NEW) .]

3. Accuracy. The assessment of accuracy and integrity of information set forth in electronic records is governed by the following.

A. If a rule of law requires a record to be presented or retained in its original form or provides consequences for the record not being presented or retained in its original form, that requirement is met by an electronic record if there exists a reliable assurance as to the integrity of the information set forth in the electronic record at the time it was first generated in its final form, whether as an electronic record or in another form. Reliable assurance may be based on documentation of standard operating, access and security procedures governing the system that manages the electronic record. [1997, c. 636, §9 (NEW) .]

B. The integrity and accuracy of the information in an electronic record are determined by whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change that arises in the normal course of communication, storage and display. The standard of reliability required must be assessed in light of the purpose for which the information was generated and in light of all the relevant circumstances. [1997, c. 636, §9 (NEW).]

[1997, c. 636, §9 (NEW) .]

4. Retention. The ability of electronic records to meet legal requirements regarding the retention of documents, records or information is governed by the following.

A. If a rule of law requires that certain documents, records or information be retained, that requirement is met by retaining electronic records as long as the following conditions are satisfied:

- (1) The information contained in the electronic record remains accessible so that it is usable for subsequent reference;
- (2) The electronic record is retained in the format in which it was generated, stored, sent or received, or in a format that can be demonstrated to reflect accurately the information as originally generated, stored, sent or received; and
- (3) Any information that enables the identification of the source or origin and destination of an electronic record and the date and time when it was sent or received is retained. [1997, c. 636, §9 (NEW).]

B. A requirement to retain documents, records or information in accordance with paragraph A does not extend to any information the sole purpose of which is to enable the record to be sent or received. [1997, c. 636, §9 (NEW).]

C. A person may satisfy the requirement referred to in paragraph A by using the services of any other person as long as the conditions set forth in paragraph A, subparagraphs (1) to (3) are met. [1997, c. 636, §9 (NEW).]

D. Nothing in this subsection precludes any state agency from specifying additional requirements for the retention of records, either written or electronic, that are subject to the jurisdiction of that agency. [1997, c. 636, §9 (NEW).]

[1997, c. 636, §9 (NEW) .]

SECTION HISTORY

1997, c. 636, §9 (NEW).

§457. COPIES OF CONSULAR AND CUSTOMHOUSE RECORDS AND DOCUMENTS

Copies of papers and documents belonging to, or filed or remaining in the office of any consul, vice-consul or commercial agent of the United States and of official entries in the books or records of such office, when certified under the hand and official seal of the proper consul, vice-consul or commercial agent are evidence. Copies of registers or enrollments of vessels, or of any other customhouse records or documents deposited in the office of the collector of customs, attested by him or his deputy, under seal of office, may be used in evidence and shall have the same effect as the production of the records in court, verified by the recording officer in person.

§458. COPIES OF DEEDS OF DIRECTOR OF THE BUREAU OF PARKS AND LANDS

A copy from the records in the office of the Director of the Bureau of Parks and Lands of a deed from the State of the land of the State, or of a deed from the State and from the Commonwealth of Massachusetts of the undivided lands of the State and of said Commonwealth, or of a deed from said Commonwealth of the

lands of said Commonwealth in Maine, certified by the Director of the Bureau of Parks and Lands or other legal custodian of such records as a true copy thereof, may be filed and recorded in the registry of deeds in the county or registry district where the land lies, with the same effect as if the deed itself had been recorded, whether said deed shall or shall not have been acknowledged by the person making the same. Such record shall have all the force and effect of a record of deeds duly acknowledged, and certified copies thereof from such registry shall be evidence when the original would be. [1975, c. 339, §7 (AMD); 1995, c. 502, Pt. E, §30 (AMD); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §24 (REV).]

SECTION HISTORY

1965, c. 226, §62 (AMD). 1975, c. 339, §7 (AMD). 1995, c. 502, Pt. E, §30 (AMD). 2011, c. 657, Pt. W, §7 (REV). 2013, c. 405, Pt. A, §24 (REV).

§459. ADJUTANT GENERAL'S CERTIFICATE AS EVIDENCE

The certificate of the Adjutant General relating to the enlistment of any person from this State in the United States' service and of all facts pertaining to the situation of such person, to the time of and including his discharge, as found upon the records of his office, are prima facie evidence of the facts so certified in any civil action or proceeding.

§460. PROOF OF OFFICIAL RECORD

(REPEALED)

SECTION HISTORY

1965, c. 356, §65 (RP).

§461. PROOF OF LACK OF RECORD

(REPEALED)

SECTION HISTORY

1965, c. 356, §65 (RP).

§462. SCOPE OF PROOF

(REPEALED)

SECTION HISTORY

1965, c. 356, §65 (RP).

Subchapter 4: STATUTES AND LAW**§501. PROOF OF FOREIGN LAWS AND UNWRITTEN STATE LAW**

Foreign laws may be proved by parol evidence, but when such law appears to be existing in a written statute or code, it may be rejected unless accompanied by a copy thereof. The unwritten law of any other state or territory of the United States may be proved by parol evidence and by books of reports of cases adjudged in their courts.

Reference to the citation of such cases shall be deemed to incorporate them in the record. The determination of such law shall be for the court on all the evidence.

Subchapter 5: DEPOSITIONS

§551. USE OF DEPOSITIONS

In trials before probate courts, arbitrators, referees under Title 14, chapter 303, and county commissioners, depositions may, upon order of the tribunal before which the matter is pending and on good cause shown, be taken and used in the manner provided by rule for depositions in the Superior Court. Depositions or affidavits may be taken in applications for pensions, bounties or arrears of pay under any law of the United States.

§552. RECORDING OF DEPOSITION AND OTHER PAPERS

Any deposition to perpetuate testimony taken before action or pending appeal together with the verified petition therefor and certificate of the officer before whom it was taken shall, within 90 days after the taking, be recorded in the registry of deeds in the county where the land or any part of it lies, if the deposition relates to real estate; if not, in the county where the parties or any of them reside.

§553. DEPOSITION BY COMPULSION

When a magistrate, duly authorized, has summoned a person before him to give his deposition or affidavit in any case authorized by this subchapter pending in this or any other state, the summons has been served and returned by a proper officer or other person, and proof thereof is entered on the summons, and legal fees have been tendered him a reasonable time before the day appointed for taking the deposition and he refuses to attend, the magistrate may adjourn the time of taking his deposition and issue a capias, directed to a proper officer, to apprehend and bring such person before him. If at the time of the adjournment he is not apprehended, the magistrate may adjourn from time to time until he is brought before him. If he then refuses to depose and answer such questions as are propounded to him by either of the parties or persons interested, under his direction, the magistrate may commit him to the county jail for contempt, as a court may commit a witness for refusing to testify. The capias may be served by the sheriff, deputy sheriff or any constable of the county in which such person resides. If he escapes into another county, either of said officers may arrest him there and bring him before said magistrate.

§554. STENOGRAPHERS WITH POWER TO TAKE DEPOSITIONS

(REPEALED)

SECTION HISTORY

1969, c. 367, §3 (RP).

§555. MANNER OF TAKING DEPOSITIONS AND DISCLOSURES

(REPEALED)

SECTION HISTORY

1969, c. 367, §3 (RP).

§556. FEES OF COMMISSIONERS

(REPEALED)

SECTION HISTORY

1969, c. 367, §3 (RP).

§557. TESTIMONY OF PARTY OUT OF STATE

When a party to a civil action resides without the State or is absent therefrom during the pendency of the action and the opposite party desires his testimony, a commission under the rules of court may issue to take his deposition. Such nonresident or absent party, upon such notice to him or his attorney of record in the action of the time and place appointed for taking his deposition, as the court orders, shall appear and give his

deposition. If he refuses or unreasonably delays to do so, the action may be dismissed or defaulted by order of court unless his attorney admits the affidavit of the party desiring his testimony as to what the absent party would say, if present, to be used as testimony in the case.

Subchapter 6: RECORDS OF ARRESTS

§600. EXPUNGEMENT OF RECORDS OF ARREST

(REPEALED)

SECTION HISTORY

1969, c. 460, (NEW). 1973, c. 706, (RPR). 1975, c. 430, §§23,24 (AMD).
1975, c. 623, §§18-A,18-B (AMD). 1975, c. 763, §2 (RP).

Subchapter 7: CRIMINAL HISTORY RECORD INFORMATION

§601. DEFINITIONS

(REPEALED)

SECTION HISTORY

1975, c. 763, §3 (NEW). 1979, c. 433, §1 (RP).

§602. APPLICABILITY

(REPEALED)

SECTION HISTORY

1975, c. 763, §3 (NEW). 1977, c. 281, (AMD). 1977, c. 384, §1 (AMD).
1979, c. 433, §1 (RP).

§603. NONDISCLOSURE OF CERTAIN RECORDS

(REPEALED)

SECTION HISTORY

1975, c. 763, §3 (NEW). 1979, c. 433, §1 (RP).

§604. LIMITATIONS ON DISSEMINATION

(REPEALED)

SECTION HISTORY

1975, c. 763, §3 (NEW). 1977, c. 311, §2 (AMD). 1977, c. 383, (AMD).
1979, c. 433, §1 (RP).

§605. UNLAWFUL DISSEMINATION

(REPEALED)

SECTION HISTORY

1975, c. 763, §3 (NEW). 1979, c. 433, §1 (RP).

§606. RIGHT TO ACCESS AND REVIEW

(REPEALED)

SECTION HISTORY

1975, c. 763, §3 (NEW). 1977, c. 384, §§2-4 (AMD). 1979, c. 433, §1 (RP).

§607. APPLICATION

(REPEALED)

SECTION HISTORY

1975, c. 763, §3 (NEW). 1979, c. 433, §1 (RP).

Subchapter 8: CRIMINAL HISTORY RECORD INFORMATION ACT

§611. DEFINITIONS

(REPEALED)

SECTION HISTORY

1979, c. 433, §2 (NEW). 1983, c. 787, §1 (AMD). 1993, c. 719, §§5,6 (AMD). 1993, c. 719, §12 (AFF). 1995, c. 216, §1 (AMD). 2013, c. 267, Pt. A, §1 (RP).

§612. APPLICATION

(REPEALED)

SECTION HISTORY

1979, c. 433, §2 (NEW). RR 2011, c. 2, §14 (COR). 2013, c. 267, Pt. A, §1 (RP).

§612-A. RECORD OF PERSONS DETAINED

(REPEALED)

SECTION HISTORY

1983, c. 377, (NEW). RR 1995, c. 2, §33 (COR). 2013, c. 267, Pt. A, §1 (RP).

§613. LIMITATIONS ON DISSEMINATION OF NONCONVICTION DATA

(REPEALED)

SECTION HISTORY

1979, c. 433, §2 (NEW). 2013, c. 267, Pt. A, §1 (RP).

§614. LIMITATION ON DISSEMINATION OF INTELLIGENCE AND INVESTIGATIVE INFORMATION

(REPEALED)

SECTION HISTORY

1979, c. 433, §2 (NEW). 1981, c. 64, (AMD). 1983, c. 787, §2 (AMD). 1985, c. 552, (AMD). 1991, c. 729, §3 (AMD). 1991, c. 837, §B5 (AMD). 1993, c. 376, §1 (AMD). 1993, c. 719, §7 (AMD). 1993, c. 719, §12 (AFF). 1995, c. 135, §1 (AMD). 1997, c. 456, §10 (AMD). 1999, c. 155, §A5 (AMD). 1999, c. 305, §1 (AMD). 2001, c. 532, §§1,2 (AMD). 2003, c. 402, §§1,2 (AMD). 2009, c. 181, §§1-4 (AMD). 2011, c. 52, §1 (AMD).

2011, c. 210, §1 (AMD). 2011, c. 356, §1 (AMD). 2011, c. 657, Pt. W, §§5, 8 (REV). 2011, c. 691, Pt. A, §10 (AMD). 2013, c. 267, Pt. A, §1 (RP). 2013, c. 267, Pt. B, §§7-9 (AMD). 2013, c. 588, Pt. A, §20 (RP).

§615. DISSEMINATION OF CONVICTION DATA

(REPEALED)

SECTION HISTORY

1979, c. 433, §2 (NEW). 2013, c. 267, Pt. A, §1 (RP).

§616. INQUIRIES REQUIRED

(REPEALED)

SECTION HISTORY

1979, c. 433, §2 (NEW). 2013, c. 267, Pt. A, §1 (RP).

§617. DISSEMINATION TO NONCRIMINAL JUSTICE AGENCIES

(REPEALED)

SECTION HISTORY

1979, c. 433, §2 (NEW). 2013, c. 267, Pt. A, §1 (RP).

§618. CONFIRMING EXISTENCE OR NONEXISTENCE OF CRIMINAL HISTORY RECORD INFORMATION

(REPEALED)

SECTION HISTORY

1979, c. 433, §2 (NEW). 2013, c. 267, Pt. A, §1 (RP).

§619. UNLAWFUL DISSEMINATION

(REPEALED)

SECTION HISTORY

1979, c. 433, §2 (NEW). 2013, c. 267, Pt. A, §1 (RP).

§620. RIGHT TO ACCESS AND REVIEW

(REPEALED)

SECTION HISTORY

1979, c. 433, §2 (NEW). 2013, c. 267, Pt. A, §1 (RP).

§622. APPLICATION

(REPEALED)

SECTION HISTORY

1979, c. 433, §2 (NEW). 2013, c. 267, Pt. A, §1 (RP).

§623. ATTORNEY GENERAL FEES

(REPEALED)

SECTION HISTORY

1993, c. 719, §9 (NEW). 2013, c. 267, Pt. A, §1 (RP).

Subchapter 9: MAINE CRIMINAL JUSTICE INFORMATION SYSTEM

§631. MAINE CRIMINAL JUSTICE INFORMATION SYSTEM

There is created, within the Department of Public Safety, an information clearinghouse to be known as the Maine Criminal Justice Information System. The Maine Criminal Justice Information System shall provide criminal justice agencies and authorized private users ready access to shared uniform information on criminal offenders and crime data, including: [1993, c. 346, §1 (NEW).]

1. Offender tracking information. Offender-based tracking information, including any active status of offenders in the criminal justice system;

[1993, c. 346, §1 (NEW) .]

2. Criminal history information. Criminal history record information that includes information on the potential risk of individuals;

[1993, c. 346, §1 (NEW) .]

3. Crime data. Specific crime data for investigations and statistical analysis;

[1993, c. 346, §1 (NEW) .]

4. Warrant information. Warrant and wanted persons information;

[1993, c. 346, §1 (NEW) .]

4-A. Conditions of release information. Status and conditions of release of those persons on probation or parole or admitted to bail;

[1999, c. 451, §1 (NEW) .]

4-B. Protective order information. Information pertaining to conditions of protection, protected persons and the subjects of protection from abuse orders;

[1999, c. 451, §1 (NEW) .]

5. Stolen property information. Stolen property listings; and

[1993, c. 346, §1 (NEW) .]

6. Other information. Other information available through communications or networking with other states or federal criminal justice agencies, or both.

[1993, c. 346, §1 (NEW) .]

SECTION HISTORY

1993, c. 346, §1 (NEW). 1999, c. 451, §1 (AMD).

§632. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1993, c. 346, §1 (NEW) .]

1. Administration of criminal justice. "Administration of criminal justice" has the same meaning as defined in section 703, subsection 1.

[2013, c. 267, Pt. B, §10 (AMD) .]

2. Conviction data.

[2013, c. 267, Pt. B, §10 (RP) .]

2-A. Confidential criminal history record information. "Confidential criminal history record information" has the same meaning as defined in section 703, subsection 2.

[2013, c. 267, Pt. B, §10 (NEW) .]

3. Criminal history record information. "Criminal history record information" has the same meaning as defined in section 703, subsection 3.

[2013, c. 267, Pt. B, §10 (AMD) .]

4. Criminal justice agency. "Criminal justice agency" has the same meaning as defined in section 703, subsection 4.

[2013, c. 267, Pt. B, §10 (AMD) .]

5. Criminal record information system. "Criminal record information system" means a system including equipment, facilities, procedures and agreements for the collection, processing, preservation and dissemination of criminal record information including criminal history record information.

[1993, c. 346, §1 (NEW) .]

6. Disposition. "Disposition" has the same meaning as defined in section 703, subsection 5.

[2013, c. 267, Pt. B, §10 (AMD) .]

7. Executive order. "Executive order" has the same meaning as defined in section 703, subsection 7.

[2013, c. 267, Pt. B, §10 (AMD) .]

8. Nonconviction data.

[2013, c. 267, Pt. B, §10 (RP) .]

9. Offender. "Offender" means an individual, juvenile or adult, accused or convicted of a criminal offense under the laws of this State or federal law.

[1993, c. 346, §1 (NEW) .]

10. Offender-based tracking information. "Offender-based tracking information" means information collected during the administration of criminal justice by criminal justice agencies related to an identifiable person who has been determined to be an offender.

[1993, c. 346, §1 (NEW) .]

11. Person.

[2013, c. 267, Pt. B, §10 (RP) .]

11-A. Public criminal history record information. "Public criminal history record information" has the same meaning as defined in section 703, subsection 8.

[2013, c. 267, Pt. B, §10 (NEW) .]

12. State. "State" has the same meaning as defined in section 703, subsection 9.

[2013, c. 267, Pt. B, §10 (AMD) .]

13. Statute. "Statute" has the same meaning as defined in section 703, subsection 10.

[2013, c. 267, Pt. B, §10 (AMD) .]

SECTION HISTORY

1993, c. 346, §1 (NEW). 2013, c. 267, Pt. B, §10 (AMD).

§633. POLICY BOARD ESTABLISHED; MEMBERSHIP

There is established the Maine Criminal Justice Information System Policy Board, referred to in this subchapter as the "board." The board consists of 13 members that include the Attorney General, the Commissioner of Public Safety, the Commissioner of Corrections, the State Court Administrator, the Chief of the State Police, the Associate Commissioner for Adult Services within the Department of Corrections, the Chief Information Officer, a representative of the Maine Prosecutors Association appointed by the Attorney General, a representative of the Maine Chiefs of Police Association appointed by the Commissioner of Public Safety, a representative of the Maine Sheriff's Association appointed by the Commissioner of Public Safety, a representative of a federal criminal justice agency appointed by the Governor, a representative of a nongovernmental agency that provides services to victims of domestic violence appointed by the Governor and a public member who represents private users of criminal offender record information appointed by the Governor. [2005, c. 12, Pt. SS, §19 (AMD).]

SECTION HISTORY

1993, c. 346, §1 (NEW). 1999, c. 451, §2 (AMD). 2001, c. 388, §15 (AMD). 2005, c. 12, §§19 (AMD).

§634. TERM OF MEMBERSHIP

The Attorney General, the Commissioner of Public Safety, the Commissioner of Corrections, the State Court Administrator, the Chief of the State Police and the Chief Information Officer are members of the board during their terms of office and may appoint designees to serve in their place. The other members of the board serve terms of 3 years. Members of the board serve without compensation, except for reimbursement for actual expenses incurred in the performance of their duties. Any vacancy on the board must be filled in the same manner as the original appointment, but only for the unexpired term. [2005, c. 12, Pt. SS, §20 (AMD).]

SECTION HISTORY

1993, c. 346, §1 (NEW). 2005, c. 12, §SS20 (AMD).

§635. DUTIES

The board has the following duties. [1993, c. 346, §1 (NEW).]

1. Establish policies. The board shall establish policies and practices necessary to provide ready access to shared, uniform information on criminal offenders and crime data described in section 631.

[1999, c. 451, §3 (AMD) .]

2. Establish information standards. The board shall establish, maintain and promote minimum standards for accessing the Maine Criminal Justice Information System to ensure complete, accurate and up-to-date information is received by criminal justice agencies and authorized private users. These standards include:

- A. Completeness and accuracy of information; [1993, c. 346, §1 (NEW).]
- B. Limitations on access and dissemination of information; [1993, c. 346, §1 (NEW).]
- C. System audits; [1993, c. 346, §1 (NEW).]
- D. System security; [1993, c. 346, §1 (NEW).]
- E. Individuals' rights to the review of records; [1993, c. 346, §1 (NEW).]
- F. Hardware and software requirements; [1993, c. 346, §1 (NEW).]
- G. Networking and communications; and [1993, c. 346, §1 (NEW).]
- H. Personnel qualifications and training. [1993, c. 346, §1 (NEW).]

[1993, c. 346, §1 (NEW) .]

3. Recommendation of fees.

[1999, c. 451, §3 (RP) .]

4. Report. The board shall submit the following reports to the Legislature.

A. The board shall report to the joint standing committees of the Legislature having jurisdiction over criminal justice matters and judiciary matters no later than January 1st of each year concerning the status of the development, implementation and operation of the Maine Criminal Justice Information System. The report must contain information about the ability of the Judicial Department, the Department of Public Safety and the Department of Corrections to maintain, furnish and disseminate information described in section 631 in an automated manner. The report must also contain a project plan that delineates the date upon which each category of information described in section 631 will be available to criminal justice agencies and authorized private users in an automated fashion and, for those categories for which the information is already available in an automated fashion but for which enhancements are planned, the date upon which enhanced service will be available. [1999, c. 451, §3 (NEW).]

B. The board shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters no later than January 1st of each year concerning the methods devised to keep accurate, updated records of misdemeanor crimes of domestic violence to ensure enforcement of 18 United States Code, Section 922 (1996). [1999, c. 451, §3 (NEW).]

[1999, c. 451, §3 (AMD) .]

SECTION HISTORY

1993, c. 346, §1 (NEW). 1997, c. 194, §1 (AMD). 1999, c. 451, §3 (AMD).

§636. ADMINISTRATION

The Department of Public Safety shall provide general administrative oversight for the board's policies and responsibilities. The Department of Public Safety and other criminal justice agencies when appropriate may employ personnel necessary to carry out the purposes of the Maine Criminal Justice Information System, lease, rent or acquire adequate equipment and facilities, accept federal funds or grants that are available to carry out or implement its purpose and provide technical assistance and training to criminal justice agencies necessary to meet minimum standards for access. [1999, c. 451, §4 (AMD).]

SECTION HISTORY

1993, c. 346, §1 (NEW). 1999, c. 451, §4 (AMD).

§637. MEETINGS

The board may meet at such time or times as necessary to carry out its duties, but at least one time in each calendar quarter at a place and time as the board determines and at the call of the chair. The board shall elect annually a chair, vice-chair, secretary and a treasurer from among its members. [1993, c. 346, §1 (NEW).]

SECTION HISTORY

1993, c. 346, §1 (NEW).

Subchapter 10: PORTABLE ELECTRONIC DEVICE CONTENT INFORMATION

§641. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2013, c. 402, §1 (NEW).]

1. Adverse result. "Adverse result" means:

- A. Immediate danger of death or serious physical injury; [2013, c. 402, §1 (NEW).]
- B. Flight from prosecution; [2013, c. 402, §1 (NEW).]
- C. Destruction of or tampering with evidence; [2013, c. 402, §1 (NEW).]
- D. Intimidation of a potential witness; [2013, c. 402, §1 (NEW).]
- E. Potentially jeopardizing an investigation; [2013, c. 402, §1 (NEW).]
- F. Undue delay of a trial; or [2013, c. 402, §1 (NEW).]
- G. Other significantly detrimental consequence. [2013, c. 402, §1 (NEW).]

[2013, c. 402, §1 (NEW) .]

2. Content information. "Content information," when used with respect to any wire, oral or electronic communication, includes any information concerning the substance, purport or meaning of that communication.

[2013, c. 402, §1 (NEW) .]

3. Electronic communication service. "Electronic communication service" means a service that provides to users the ability to send or receive spoken or electronic communications.

[2013, c. 402, §1 (NEW) .]

4. Government entity. "Government entity" means a state or local government agency, including but not limited to a law enforcement entity or any other investigative entity, agency, department, division, bureau, board or commission or an individual acting or purporting to act for or on behalf of a state or local government agency.

[2013, c. 402, §1 (NEW) .]

5. Owner. "Owner" means the person or entity having the legal title, claim or right to a portable electronic device.

[2013, c. 402, §1 (NEW) .]

6. Portable electronic device. "Portable electronic device" means a portable device that enables access to, or use of, an electronic communication service or remote computing service.

[2013, c. 402, §1 (NEW) .]

7. Remote computing service. "Remote computing service" means computer storage or processing services provided by means of an electronic communication service.

[2013, c. 402, §1 (NEW) .]

8. User. "User" means a person or entity that uses a portable electronic device.

§641. Definitions (As enacted by PL 2013, c. 409, §1 is REALLOCATED TO TITLE 16, SECTION 647)

[2013, c. 402, §1 (NEW) .]

SECTION HISTORY

RR 2013, c. 1, §28 (RAL). 2013, c. 402, §1 (NEW). 2013, c. 409, §1 (NEW).

§642. AUTHORITY TO OBTAIN AND DISCLOSE CONTENT INFORMATION HELD BY A PROVIDER OF ELECTRONIC COMMUNICATION SERVICE

1. Authority to obtain. A government entity may obtain portable electronic device content information directly from a provider of electronic communication service only in accordance with a valid warrant issued by a duly authorized justice, judge or justice of the peace using procedures established pursuant to Title 15, section 55 or as otherwise provided in this subchapter.

[2013, c. 519, §5 (AMD) .]

2. Authority to disclose. A provider of electronic communication service may disclose portable electronic device content information to a government entity only pursuant to a warrant issued by a duly authorized justice, judge or justice of the peace or as otherwise provided in this subchapter.

§642. Warrant needed for acquisition of location information (As enacted by PL 2013, c. 409, §1 is REALLOCATED TO TITLE 16, SECTION 648)

[2013, c. 519, §5 (AMD) .]

SECTION HISTORY

RR 2013, c. 1, §29 (RAL). 2013, c. 402, §1 (NEW). 2013, c. 409, §1 (NEW). 2013, c. 519, §5 (AMD).

§643. NOTICE

Notice must be given to the owner or user of a portable electronic device whose content information was obtained by a government entity. [2013, c. 402, §1 (NEW) .]

1. Timing and content of notice. Unless the court determines under subsection 2 that no notice is required, the government entity shall provide notice to the owner or user that content information was obtained by the government entity from that owner's or user's portable electronic device within 3 days of obtaining the content information. The notice must be made by service or delivered by registered or first-class mail, e-mail or any other means reasonably calculated to be effective as specified by the court issuing the warrant. The notice must contain the following information:

A. The nature of the law enforcement inquiry, with reasonable specificity; [2013, c. 402, §1 (NEW) .]

B. The content information of the owner or user that was supplied to or requested by the government entity and the date on which it was provided or requested; and [2013, c. 402, §1 (NEW) .]

C. If content information was obtained from a provider of electronic communication service or other 3rd party, the identity of the provider of electronic communication service or the 3rd party from whom the information was obtained. [2013, c. 402, §1 (NEW) .]

[2013, c. 402, §1 (NEW) .]

2. Notification not required. A government entity acting under section 642 may include in the application for a warrant a request for an order to waive the notification required under this section. The court may issue the order if the court determines that there is reason to believe that notification will have an adverse result.

[2013, c. 402, §1 (NEW) .]

3. Preclusion of notice to owner or user subject to warrant for content information. A government entity acting under section 642 may include in its application for a warrant a request for an order directing a provider of electronic communication service to which a warrant is directed not to notify any other person of the existence of the warrant. The court may issue the order if the court determines that there is reason to believe that notification of the existence of the warrant will have an adverse result.

§643. Notice (As enacted by PL 2013, c. 409, §1 is REALLOCATED TO TITLE 16, SECTION 649)

[2013, c. 402, §1 (NEW) .]

SECTION HISTORY

RR 2013, c. 1, §30 (RAL). 2013, c. 402, §1 (NEW). 2013, c. 409, §1 (NEW) .

§644. EXCEPTIONS

1. Consent of owner or user. When disclosure of portable electronic device content information is not prohibited by federal law, a government entity may obtain the information without a warrant with the informed, affirmative consent of the owner or user of the portable electronic device concerned, except when the device is known or believed by the owner or user to be in the possession of a 3rd party known to the owner or user.

[2013, c. 402, §1 (NEW) .]

2. Consent of owner or user not required if content information public. Notwithstanding subsection 1, a government entity may obtain content information without a warrant if the content information is otherwise disclosed by anyone in a publicly accessible domain, including, but not limited to, on the Internet.

[2013, c. 402, §1 (NEW) .]

3. Emergency. When a government entity cannot, with due diligence, obtain a warrant in time to address an emergency that involves or is believed to involve an imminent threat to life or safety, a government entity may obtain the content information from a portable electronic device without a warrant, and a provider of electronic communication service may disclose such information to the requesting government entity without a warrant.

§644. Exceptions to warrant requirement (As enacted by PL 2013, c. 409, § 1 is REALLOCATED TO TITLE 16, SECTION 650)

[2013, c. 402, §1 (NEW) .]

SECTION HISTORY

RR 2013, c. 1, §31 (RAL). 2013, c. 402, §1 (NEW). 2013, c. 409, §1 (NEW) .

§645. USE OF CONTENT INFORMATION OBTAINED IN VIOLATION OF THIS SUBCHAPTER NOT ADMISSIBLE

Except as proof of a violation of this subchapter, evidence obtained in violation of this subchapter is not admissible in a criminal, civil, administrative or other proceeding. [2013, c. 402, §1 (NEW) .]

§645. Conditions of use of location information (As enacted by PL 2013, c. 409, §1 is REALLOCATED TO TITLE 16, SECTION 650-A)

SECTION HISTORY

RR 2013, c. 1, §32 (RAL). 2013, c. 402, §1 (NEW). 2013, c. 409, §1 (NEW) .

§646. VIOLATIONS; INJUNCTIVE RELIEF

A person damaged as a result of a violation of this subchapter has a cause of action in court against a government entity that fails to comply with the provisions of this subchapter, and the court may award injunctive relief. [2013, c. 402, §1 (NEW) .]

§646. Action against a corporation (As enacted by PL 2013, c. 409, §1 is REALLOCATED TO TITLE 16, SECTION 650-B)

SECTION HISTORY

RR 2013, c. 1, §33 (RAL). 2013, c. 402, §1 (NEW). 2013, c. 409, §1 (NEW) .

Subchapter 11: ELECTRONIC DEVICE LOCATION INFORMATION

§647. DEFINITIONS

(REALLOCATED FROM TITLE 16, SECTION 641)

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2013, c. 1, §28 (RAL) .]

1. Adverse result. "Adverse result" means:

- A. Immediate danger of death or serious physical injury; [2013, c. 1, §28 (RAL) .]
- B. Flight from prosecution; [2013, c. 1, §28 (RAL) .]
- C. Destruction of or tampering with evidence; [2013, c. 1, §28 (RAL) .]
- D. Intimidation of a potential witness; [2013, c. 1, §28 (RAL) .]
- E. Substantially jeopardizes an investigation; or [2013, c. 1, §28 (RAL) .]
- F. Undue delay of a trial. [2013, c. 1, §28 (RAL) .]

[2013, c. 1, §28 (RAL) .]

2. Electronic communication service. "Electronic communication service" means a service that provides to users the ability to send or receive wire or electronic communications.

[2013, c. 1, §28 (RAL) .]

3. Electronic device. "Electronic device" means a device that enables access to, or use of, an electronic communication service, remote computing service or location information service.

[2013, c. 1, §28 (RAL) .]

4. Government entity. "Government entity" means a state or local agency, including but not limited to a law enforcement entity or any other investigative entity, agency, department, division, bureau, board or commission or an individual acting or purporting to act for or on behalf of a state or local agency.

[2013, c. 1, §28 (RAL) .]

5. Location information. "Location information" means information concerning the location of an electronic device, including both the current location and any prior location of the device, that, in whole or in part, is generated, derived from or obtained by the operation of an electronic device.

[2013, c. 1, §28 (RAL) .]

6. Location information service. "Location information service" means a global positioning service or other mapping, locational or directional information service.

[2013, c. 1, §28 (RAL) .]

7. Owner. "Owner" means the person or entity having the legal title, claim or right to an electronic device.

[2013, c. 1, §28 (RAL) .]

8. Remote computing service. "Remote computing service" means computer storage or processing services provided by means of an electronic communication service.

[2013, c. 1, §28 (RAL) .]

9. User. "User" means a person or entity that uses an electronic device.

[2013, c. 1, §28 (RAL) .]

SECTION HISTORY

RR 2013, c. 1, §28 (RAL) .

§648. WARRANT NEEDED FOR ACQUISITION OF LOCATION INFORMATION (REALLOCATED FROM TITLE 16, SECTION 642)

Except as provided in this subchapter, a government entity may not obtain location information without a valid warrant issued by a duly authorized justice, judge or justice of the peace using procedures established pursuant to Title 15, section 55. [2013, c. 519, §6 (AMD).]

A justice, judge or justice of the peace may issue a warrant for the location information of an electronic device pursuant to this section for a period of time necessary to achieve the objective of the authorization, but in any case the warrant is not valid for more than 10 days after the issuance. A justice, judge or justice of the peace may grant an extension of a warrant upon a finding of continuing probable cause and a finding that the extension is necessary to achieve the objective of the authorization. An extension may not exceed 30 days. [2013, c. 519, §6 (AMD).]

SECTION HISTORY

RR 2013, c. 1, §29 (RAL). 2013, c. 519, §6 (AMD).

§649. NOTICE (REALLOCATED FROM TITLE 16, SECTION 643)

Notice must be given to the owner or user of an electronic device whose location information was obtained by a government entity. The government entity's notification obligation applies only if the government entity is able to identify the owner or user. [2013, c. 1, §30 (RAL).]

1. Timing and content of notice. Unless the court determines under subsection 2 that no notice is required, the government entity shall provide notice to the owner or user that location information was obtained by the government entity from that owner's or user's electronic device within 3 days of obtaining the location information. The notice must be made by service or delivered by registered or first-class mail, e-mail or any other means reasonably calculated to be effective as specified by the court issuing the warrant. The notice must contain the following information:

- A. The nature of the law enforcement inquiry, with reasonable specificity; [2013, c. 1, §30 (RAL).]
- B. The location information of the owner or user that was supplied to or requested by the government entity and the date on which it was provided or requested; and [2013, c. 1, §30 (RAL).]
- C. If location information was obtained from a provider of electronic communication service or location information service or other 3rd party, the identity of the provider of electronic communication service or location information service or the 3rd party from whom the information was obtained. [2013, c. 1, §30 (RAL).]

[2013, c. 1, §30 (RAL).]

2. Notification not required. A government entity acting under section 648 may include in the application for a warrant a request for an order to waive the notification required under this section. The court may issue the order if the court determines that there is reason to believe that notification will have an adverse result.

[2013, c. 588, Pt. A, §21 (AMD).]

3. Preclusion of notice to owner or user subject to warrant for location information. A government entity acting under section 648 may include in its application for a warrant a request for an order directing a provider of electronic communication service or location information service to which a warrant is directed

not to notify any other person of the existence of the warrant. The court may issue the order if the court determines that there is reason to believe that notification of the existence of the warrant will have an adverse result.

[2013, c. 588, Pt. A, §21 (AMD) .]

SECTION HISTORY

RR 2013, c. 1, §30 (RAL). 2013, c. 588, Pt. A, §21 (AMD).

§650. EXCEPTIONS TO WARRANT REQUIREMENT

(REALLOCATED FROM TITLE 16, SECTION 644)

When disclosure of location information is not prohibited by federal law, a government entity may obtain the location information without a warrant: [2013, c. 1, §31 (RAL) .]

1. Emergency services. To respond to the user's call for emergency services;

[2013, c. 1, §31 (RAL) .]

2. Consent of owner or user. With the informed, affirmative consent of the owner or user of the electronic device concerned, except when the device is known or believed by the owner or user to be in the possession of a 3rd party known to the owner or user;

[2013, c. 1, §31 (RAL) .]

3. Consent of family member. With the informed, affirmative consent of the legal guardian or next of kin of the owner or user, if the owner or user is believed to be deceased or reported missing and unable to be contacted; or

[2013, c. 1, §31 (RAL) .]

4. Immediate danger of death or serious injury. If the government entity reasonably believes that an emergency involving immediate danger of death or serious physical injury to a person requires the disclosure, without delay, of location information concerning a specific person and that a warrant cannot be obtained in time to prevent the identified danger, and the possessor of the location information, in good faith, believes that an emergency involving danger of death or serious physical injury to a person requires the disclosure without delay.

Within a reasonable period of time after seeking disclosure pursuant to this subsection, the government entity seeking the location information shall file with the appropriate court a written statement setting forth the facts giving rise to the emergency and the facts as to why the person whose location information was sought is believed to be important in addressing the emergency.

[2013, c. 1, §31 (RAL) .]

SECTION HISTORY

RR 2013, c. 1, §31 (RAL).

§650-A. CONDITIONS OF USE OF LOCATION INFORMATION

(REALLOCATED FROM TITLE 16, SECTION 645)

1. Conditions of use of location information in proceeding. Location information obtained pursuant to this subchapter or evidence derived from that information may be received in evidence or otherwise disclosed in a trial, hearing or other proceeding only if each party, not less than 10 days before the trial, hearing or proceeding, has been furnished with a copy of the warrant and accompanying application under which the information was obtained.

[2013, c. 1, §32 (RAL) .]

2. Ten-day requirement; exception. The 10-day requirement under subsection 1 may be waived if a judge makes a finding that it was not possible to provide a party with the warrant and accompanying application 10 days prior to a trial, hearing or proceeding and that the party will not be prejudiced by the delay in receiving the information.

[2013, c. 1, §32 (RAL) .]

SECTION HISTORY

RR 2013, c. 1, §32 (RAL) .

§650-B. ACTION AGAINST A CORPORATION

(REALLOCATED FROM TITLE 16, SECTION 646)

This subchapter may not be construed to create a cause of action against a corporation or its officers, employees or agents for providing location information. [2013, c. 1, §33 (RAL) .]

SECTION HISTORY

RR 2013, c. 1, §33 (RAL) .

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